training module 2: the people

What this module includes:

- how people enter Britain
- the asylum process
- other immigration routes
- people’s needs when they are here

[Refer to chapters 3 and 4 of the CIH/JRF guide]

How do people enter Britain?

This is a complex subject and there is no need to go into a lot of detail. These are some of the cases and issues that arise:

- in rare cases, people may come because they were accepted as asylum seekers or refugees before they arrived
- many people migrate with a visa and/or work permit (if they need them) allowing them to live temporarily in the UK, eg to work or study, or potentially to stay permanently (eg as a spouse)
- people who enter for one purpose (eg as a student or visitor) may then seek to stay long term (eg apply for asylum)
- in addition, some people may enter illegally – either seeking work or asylum, or having perhaps been ‘trafficked’ against their will – and then seek asylum after they arrive.

The issue is complex because:

- The system makes it very difficult indeed for people to get permission in their country of origin to enter the UK as asylum seekers or refugees (and they may well put themselves at risk if they try to do so). Effectively people are forced either to enter illegally, or (say) as visitors, then claim asylum once here.
- Many of the issues about immigration status arise after people are already here – for example, if they have a visa and it expires, or they apply for asylum and are refused.
- In most cases, the nature of the situation means that it is difficult to track people and difficult to give numbers of cases involved.

The vast majority of newcomers to the UK that housing professionals meet will have entered in the normal way and passed through immigration controls. The decisions made when they entered, and changes in their immigration status since then, will affect whether they are eligible for help (eg housing benefit).
How does this affect housing professionals?

Housing professionals only need to have a broad idea of these issues and should not get involved in advising people on immigration questions.

There are two main ways in which the legalities do have to be taken into account:

- in interviewing people whose immigration status is uncertain, and
- in assessing eligibility for housing and for HB.

The current position on eligibility for housing will be set out in module 3. Advice on the legal aspects of interviewing people and the reasons for sensitivity are given on page 22 of the Good Practice Guide, and legal guidance in Appendix 2.

Except for the issue of housing benefit or where the LA has 100% nomination rights, housing association staff are in a different position from those in local authorities and they need to make sure that they treat migrants in the same way as anyone else. CIH recommends that all housing professionals avoid putting people in positions where they may compromise their immigration status.

Discussion: How should we treat immigration status in interviews?

- how should we brief staff?
- what do we really need to know?
- how do we keep up-to-date on the issues?

The asylum process

People apply for asylum either at the ‘port on entry’ or when ‘in country’. After initial screening, some people may be held in detention centres, especially if their case is judged to be weak. Many however are allowed to enter the UK on condition of reporting regularly to the immigration service while their applications are dealt with.

This process used to take months and often years. However, new cases are increasingly being dealt with quickly – perhaps in a few weeks. This means that housing staff will deal both with people who have been ‘in limbo’ for years, and ones who have quickly been given a decision, and may be still very unfamiliar with the UK and public services.

Accommodation and support

Asylum seekers are entitled to very limited state support, and are not entitled to work. If they accept help, it must be in the form either of accommodation and related support, or ‘subsistence only’ support, both provided through NASS (see module 1).

The diagram on the next page shows the relationship between the asylum decision-making process and the NASS system.
Decision-making process and support arrangements for newly-arriving asylum seekers

- **application for asylum**
  - made at port of entry or, after arrival, to immigration service (IND)

- **initial screening**
  - IND screens applicants to establish identity and ways of proceeding with claim

- **detention**
  - numbers of asylum seekers are sent to a detention centre (or, in Northern Ireland, prison) pending further investigation

- **release into the UK**
  - the majority are finger-printed and issued with temporary admission and an Application Registration Card (ARC)

- **eligible for NASS support**
  - sent to induction centre or reception agency which helps them apply and arranges emergency accommodation

- **ineligible for NASS support**
  - for example, because applicant is an unaccompanied child, or has own resources and accommodation

- **dispersal across Britain**
  - NASS provides accommodation on a ‘no choice’ basis in dispersal areas or (in Northern Ireland) through the NIHE

- **living in the community**
  - either with NASS support (if eligible) or supported by friends or own resources

- **in social services accommodation**
  - if an unaccompanied child, or accepted as in need of care because of age, illness or disability

- **contact with immigration service**
  - many asylum seekers are required to sign in regularly at assigned reporting centres (or in Northern Ireland, to the police); all are required to have a ‘substantive interview’

- **initial decision on asylum application**
  - now usually within two months

- **negative decision**
  - appeal process
  - final negative decision

- **positive decision**
  - gains refugee status and leave to remain

- **support ceases**
  - must move out of NASS accommodation in most cases
Decisions on asylum cases

A positive decision gives the asylum seeker ‘refugee’ status, or a lesser form of ‘leave to remain’ in the UK. The differences are summarised in the box on pages 17-18 of the Guide. While these differences do of course affect the individual concerned, they all enable him/her to receive housing assistance, welfare benefits, etc and may give a right to ‘family reunion’ (meaning that other immediate members of the family can be brought to join the refugee).

If asylum is refused, there is a right of appeal. Many problems occur because of refusals of apparently well-founded cases. Also, even if a case is refused, it may not be safe for the applicant to return to their home country.

More detail on refusals and their consequences is given on page 18 of the Guide. Module 6 will deal with destitution (which often arises as a result of refusal of an asylum application).

Can refugees come direct to Britain?

Yes they can – in certain specific circumstances. The main programme for receiving people here whose status has already been decided in another country is the Gateway Protection Programme. This has led to numbers of refugees being accommodated directly in places such as Sheffield and Bolton. A later module will focus on Gateway specifically.

Another way in which refugees can legally come here is if they have been accepted in another EU country but later decide to move to the UK. This has happened, for example, with thousands of Somali people originally living in Holland and other EU countries, who have since moved to the UK and settled in places like Sheffield and Leicester.

Migration from Europe

In general, people coming from elsewhere in Europe have much more freedom to live and work in the UK than do people from the rest of the world. Here is a (non-legal) summary of the position.

EEA nationals

As well as being in the European Union, Britain is also part of the ‘European Economic Area’ (EEA) which extends rights to live and work in Britain to citizens of the EU but also to certain non-EU countries - Iceland, Liechtenstein, Norway and Switzerland.

In general, residents of the EEA are free to come to Britain to work without any restrictions. They can also come to Britain live for up to three months or for other reasons other than for work (such as to study or retire).

Those that have worked and lived in Britain for a minimum qualifying period (normally one year’s work and three years residence – but varies according to the circumstances) can acquire a right of permanent residence. In exercising any of these rights there is also a right to bring family members.
**accession states**
Special rules apply though to **accession states** – certain countries which joined the EU recently (but not Malta or Cyprus, which are treated the same as the rest of the EEA). There are two special groups of accession states:

- **A8 nationals**
The A8 countries are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. People from those countries taking up new employment in the UK have to register under the Worker Registration Scheme for the first 12 months. For their entitlement to services, eg under homelessness legislation, see module 3. In all other respects, A8 nationals have the same rights as other EEA nationals.

- **A2 nationals**
People from the two countries (Bulgaria and Romania) which acceded to the EU in 2007 have more limited rights to work. Skilled workers whose employer has obtained a work permit for them, or who qualify under another scheme, can enter freely. But low-skilled migration from Bulgaria and Romania is restricted to those sectors of the economy where the UK already has low-skilled schemes and is subject to a quota which will not exceed 20,000 workers per year. A2 workers on these schemes have rights to work limited to six months. For their entitlement to benefits and housing see module 3.

In all other respects, Bulgarians and Romanians have the same rights as other EEA nationals.

**Other work-related migration**
Although people from outside the EEA have more limited opportunities to gain entry to live in the UK, the rules are complex. Specific categories of working people (eg journalists, sportsmen/women, ministers of religion) are able to work here if they satisfy the rules. Many categories of people require work permits, for which their employer has to apply.

There is also a scheme called the Highly Skilled Migrant Programme through which people who qualify can come to look for work, without a permit.

**Migration for other reasons**
Apart from work and asylum, the two main reasons why people from the rest of the world might be permitted to enter and live in the UK are to study and for family reasons (eg a person getting married, or an elderly relative coming to live with a family member here and supported by them). In general, initial entry is conditional on their having no recourse to public funds.

**Becoming settled in the UK**
Settled status, or ‘indefinite leave to remain’, is awarded to various categories of people whose initial entry was conditional. For example, someone entering to marry a British citizen will be able to apply for settled status after two years; someone here on a work permit can apply after five years. Even people whose stay is unlawful can apply for indefinite leave – but only after 14 years.
Despite its name, the entitlement to permanent residence can lapse (eg if someone lives abroad for a period), and therefore many with this status then apply for full citizenship. Both permanent residence and full citizenship bring entitlements to welfare benefits and housing assistance – if people did not previously have them. From April 2007, most people applying for indefinite leave to remain will have to pass the ‘Life in the UK’ test.

### British citizenship

After five year’s continuous residence (three years in the case of a spouse), many people are eligible to apply for citizenship. Since November 2005, apart from other criteria, most applicants have to pass the ‘Life in the UK’ test, which requires a good level of English, and knowledge about Britain.

### People’s housing and support needs

As we shall see in subsequent modules, people who have come to Britain - whether to seek asylum, to work or for other reasons - may have housing and support needs, and may be entitled to help of various kinds in meeting them.

The basic categories of support that we will consider are:

- **accommodation**
  Apart from being a basic need in itself, a secure place to live is essential to gain access to many other forms of support.

- **basic support**
  Many housing providers are engaged in delivering basic support, for example through Supporting People. An important new programme, due to be rolled out nationally, is Sunrise – it aims to provide initial support to refugees for the period immediately following a positive decision on their asylum case.

- **wider support**
  This includes ESOL (English for Speakers of Other languages), job-related training, access to health care, etc.

- **inclusion**
  Measures to help refugees and migrants to be included in the communities where they are living, and to support communities undergoing change because of migration, asylum dispersal, etc.

### People excluded from support systems

An important category of people consists of those who have ‘no recourse to public funds’ - they cannot get accommodation or other support, and they become destitute.

The two main reasons for this are refusals of asylum applications, or people working (eg A8 nationals) who lose their jobs and have no entitlement to public funds. Module 6 considers this in more detail.
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<thead>
<tr>
<th>Follow up to training module 2</th>
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<tbody>
<tr>
<td>√ Do you now feel that you know enough about immigration rules?</td>
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<tr>
<td>√ Are there any categories where you need more information?</td>
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<tr>
<td>√ Looking at the different reasons for and rules about entry to the UK, what types of people are most likely to be customers of housing organisations?</td>
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<tr>
<td>√ After receiving the advice in this module, do you need to change your organisation’s approach to such customers?</td>
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<tr>
<td>√ Are there circumstances in which people whose immigration status is in question should disclose information to you? If so, when and how?</td>
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<tr>
<td>√ Can you be sure that your treatment of customers is non-discriminatory? – for example, is a black person more likely to have their status questioned than a white person? How can you avoid this?</td>
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